THE BOMBAY PUBLIC TRUSTS ACT, 1950.

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BOMBAY ACT No. XXIX OF 1950.[1]

[THE BOMBAY PUBLIC TRUSTS ACT, 1950.]

[*14th August 1950*]

Amended by Bom. 47 of 1950.
" " " 14 of 1951.
" " " 39 of 1951.
" " " 28 of 1953.
" " " 21 of 1954.
" " " 59 of 1954.
" " " 23 of 1955.

An Act to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Bombay.

WHEREAS it is expedient to regulate and to make better provision for the administration of public religious and charitable trusts in the State of Bombay; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent, operation and application.

1. (*1*) This Act may be called the Bombay Public Trusts Act, 1950.

(*2*) It shall extend to the whole of the State of Bombay.

(*3*) This Act shall come into force at once ; but the provisions thereof shall apply to a public trust or any class of public trusts on the date specified in the notification under sub-section (*4*).

(*4*) The State Government may, by notification in the *Official Gazette* specify the date on which the provisions of this Act shall apply to any public trust or any class of public trusts :

Provided that the State Government may also by a like notification direct that from the date specified therein any public trust or class of public trusts shall be exempt from the provisions of this Act :

Provided further that before a notification of such application or exemption is published, a draft thereof shall be published in the *Official Gazette* and in such other manner as may be prescribed for the information of persons likely to be affected thereby together with a notice specifying the date on or before which any objections or suggestions shall be received and the date on or after which the draft shall be taken into consideration.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " assessor " means a person appointed as an assessor under section 7 ;

(*2*) " Assistant Charity Commissioner " means an Assistant Charity Commissioner appointed under section 5 ;

(*3*) " Charity Commissioner " means the Charity Commissioner appointed under section 3 ;

(*4*) " Court " means in the Greater Bombay, the City Civil Court and elsewhere, the District Court ;

(*5*) " Deputy Charity Commissioner " means the Deputy Charity Commissioner appointed under section 5 ;

(*6*) " Hindu " includes Jain, Buddhist and Sikh;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, pp. 235-239.

(7) " Inspector " means an Inspector appointed under section 6 ;

(8) " manager " means any person (other than a trustee) who for the time being either alone or in association with some other person or persons administers the trust property of any public trust and includes—

(a) in the case of a math, the head of such math,

(b) in the case of a wakf, a mutavalli of such wakf,

(c) in the case of a society registered under the Societies Registration Act, 1860, its governing body, if the property of the society is not vested in a trustee; XXI of 1860.

(9) " math " means an institution for the promotion of the Hindu religion presided over by a person whose duty it is to engage himself in imparting religious instructions or rendering spiritual service to a body of disciples or who exercises or claims to exercise headship over such a body and includes places of religious worship or instruction which are appurtenant to the institution ;

(10) " person having interest " [1][includes]—

(a) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in that habit of partaking in the distribution of gifts thereof,

(b) in the case of a math, a disciple of the math or a person of the religious pursuasion to which the math belongs,

(c) in the case of a wakf, a person who is entitled to receive any pecuniary or other benefit from the wakf and includes a person who has a right to worship or to perform any religious rite in a mosque, idgah, imambara, dargah, maqbara or other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf,

(d) in the case of a society registered under the Societies Registration Act, 1860, any member of such society, and XXI of 1860.

(e) in the case of any other public trust, any beneficiary ;

(11) " prescribed " means prescribed by rules ;

(12) " public securities " means—

(a) securities of the Central Government or any State Government,

(b) stocks, debentures or shares in Railway or other companies, the interest or dividend on which has been guaranteed by the Central or any State Government,

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by an Act of the Central or State Legislature ,

(d) a security expressly authorised by an order which the State Government makes in this behalf ;

(13) " public trust " means an express or constructive trust for either a public religious or charitable purpose or both and includes a temple, a math, a wakf, [2][a dharmada] or any other religious or charitable endowment and a society formed either for a religious or charitable purpose or for both and registered under the Societies Registration Act, 1860 ; XXI of 1860.

[1] This word was substituted for the word " means " by Bom. 28 of 1953, s. 2.

[2] These words were inserted by Bom. 14 of 1951, s. 2.

(*14*) "region" or "sub-region" means the areas designated as such and for which a Public Trusts Registration Office has been established under this Act;

(*15*) "rules" means rules made under this Act;

[1]* * * * * * *

(*17*) "temple" means a place by whatever designation known and used as a place of public religious worship and dedicated to or for the benefit of or used as of right by the Hindu community or any section thereof as a place of public religious worship;

(*18*) "trustee" means a person in whom either alone or in association with other persons, the trust property is vested and includes a manager;

(*19*) "wakf" means a permanent dedication by a person professing Islam of any moveable or immoveable property for any purpose recognised by the Islamic law as pious, religious or charitable and includes a wakf by user but does not include a wakf such as is described in section 3 of the Mussalman Wakf Validating Act, 1913, under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any member of his family or descendants;

VI of 1913.

(*20*) words and expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act.

II of 1882.

CHAPTER II.

ESTABLISHMENT.

Charity Commissioner.

3. The State Government may, by notification in the *Official Gazette*, appoint an Officer to be called the Charity Commissioner, who shall exercise such powers and shall perform such duties and functions as are conferred by or under the provisions of this Act and shall, subject to such general or special orders as the State Government may pass, superintend the administration and carry out the provisions of this Act throughout the State.

Qualifications for appointment of Charity Commissioner.

[2][**4.** The Charity Commissioner shall be a person,—

(*a*) who is holding or has held a judicial office not lower in rank than that of a District Judge or a Judge of the Bombay City Civil Court, or the Chief Judge of the Presidency Small Cause Court, or

(*b*) who has been for not less than ten years,—

(*i*) an advocate enrolled under the Indian Bar Councils Act, 1926,

XXXVIII of 1926.

(*ii*) an attorney of a High Court, or

Bom. XVII of 1920.

(*iii*) a pleader enrolled under the Bombay Pleaders Act, 1920.]

Deputy and Assistant Charity Commissioners.

5. (*1*) The State Government may also appoint such number of Deputy and Assistant Charity Commissioners for such regions or sub-regions or for such public trust or such class of public trusts as may be deemed necessary.

[3](*2*) A person to be appointed as a Deputy or Assistant Charity Commissioner shall be a person—

(*a*) who is holding or has held a judicial office not lower in rank than that of a Civil Judge (Senior Division) or a Judge of the Bombay City Civil Court or of the Presidency Small Cause Court, or

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[1] Clause (16) was deleted by Bom. 39 of 1951, s. 2, First Schedule.
[2] This section was substituted for the original by Bom. 14 of 1951, s. 3.
[3] This sub-section was substituted for the original, *ibid*, s. 4.

(*b*) who has been for not less than seven years,—

(*i*) an advocate enrolled under the Indian Bar Councils Act, 1926, XXXVIII of 1926.

(*ii*) an attorney of a High Court, or

(*iii*) a pleader enrolled under the Bombay Pleaders Act, 1920.] Bom. XVII of 1920.

(*3*) The Deputy and Assistant Charity Commissioners shall exercise such powers and perform such duties and functions as may be provided by or under the provisions of this Act.

Subordinate Officers.

6. To aid the Chairty Commissioner and the Deputy and Assistant Charity Commissioners in carrying out the provisions of this Act, the State Government may appoint Inspectors and other subordinate Officers with such designations and assign to them such powers, duties and functions under this Act, as may be deemed necessary :

[1][Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Charity Commissioner and the Deputy and Assistant Charity Commissioners power to appoint subordinate officers and servants, as may be specified in the order.]

Charity Commissioner and other officers to be servants of State Government.

[2][**6A.** The Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act shall be the servants of the State Government and they shall draw their pay and allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be determined by the State Government.

Cost of pay, pension, etc. of Charity Commissioner etc., to be paid to Government out of the Public Trusts Administration Fund.

6B. There shall be paid every year out of the Public Trusts Administration Fund to the State Government such cost as the State Government may determine on account of the pay, pension, leave and other allowances of the Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act.]

Assessors.

7. (*1*) The assessors shall be appointed in the manner provided in Chapter IX for any region or sub-region or with respect to any particular public trust or class of public trusts or in connection with any particular matter or class of matters to such trust or class of trusts.

(*2*) The assessors shall perform such functions as may be provided by or under the provisions of this Act.

Delegations.

8. (*1*) The State Government may delegate any of its own powers or functions under this Act to the Charity Commissioner or any other officer subject to such conditions as it thinks fit.

(*2*) The State Government may also direct that any powers exercisable and any duties or functions to be performed by any particular officer appointed under this Act may be performed by any other officer subject to such conditions as it thinks fit.

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[1] This proviso was added by Bom. 47 of 1950, s. 2.

[2] Sections 6A and 6B were inserted by Bom. 47 of 1950, s. 3.

CHAPTER III.

Charitable Purposes and Validity of certain Public Trusts.

Charitable purposes.

9. For the purposes of this Act, a charitable purpose includes—

(1) relief of poverty or distress,

(2) education,

(3) medical relief, and

(4) the advancement of any other object of general public utility,

but does not include a purpose which relates—

(*a*) exclusively to sports, or

(*b*) exclusively to religious teaching or worship.

Public trust not to be void on ground of uncertainty.

10. Notwithstanding any law, custom or usage, a public trust shall not be void, only on the ground that the persons or objects for the benefit of whom or which it is created are unascertained or unascertainable.

Explanation.—A public trust created for such objects as dharma, dharmada or punyakarya, punyadan shall not be deemed to be void, only on the ground that the objects for which it is created are unascertained or unascertainable.

Public trust not void on ground that it is void for non-charitable or non-religious purpose.

11. A public trust created for purposes some of which are charitable or religious and some are not shall not be deemed to be void in respect to the charitable or religious purpose, only on the ground that it is void with respect to the non-charitable or non-religious purpose.

Public trust not void on ground of absence of obligation.

12. Any disposition of property for a religious or charitable purpose shall not be deemed to be void as a public trust, only on the ground that no obligation is annexed with such disposition requiring the person in whose favour it is made to hold it for the benefit of a religious or charitable object.

Public trust not void on failure of specific object or society, etc. ceasing to exist.

13. If any public trust is created for a specific object of a charitable or religious nature or for the benefit of a society or institution constituted for a charitable or religious purpose, such trust shall not be deemed to be void only on the ground—

(*a*) that the performance of the specific object for which the trust was created has become impossible or impracticable, or

(*b*) that the society or institution does not exist or has ceased to exist,

notwithstanding the fact that there was no intent for the appropriation of the trust property for a general charitable or religious purpose.

CHAPTER IV.

Registration of Public Trusts.

Regions and sub-regions.

14. (*1*) For the purposes of this Act, the State Government may form regions and sub-regions and may prescribe and alter limits of such regions and sub-regions.

(*2*) The regions and sub-regions formed under this section, together with the limits thereof and every alteration of such limits shall be notified in the *Official Gazette*.

Public Trusts Registration Offices.

15. In every region or sub-region there shall be a Public Trusts Registration Office :

Provided that for two or more regions or sub-regions, there may be one Public Trusts Registration Office :

Provided further that for one region or sub-region there may be one or more Joint Public Trusts Registration Offices.

Deputy or Assistant Charity Commissioner to be in charge of Public Trusts Registration Office.

16. The State Government may appoint a Deputy Charity Commissioner or Assistant Charity Commissioner to be in charge of one or more Public Trusts Registration Offices or Joint Public Trusts Registration Offices.

Books, indices and registers.

17. In every Public Trusts Registration Office or Joint Public Trusts Registration Office, it shall be the duty of the Deputy or Assistant Charity Commissioner in charge to keep and maintain such books, indices and other registers as may be prescribed. Such books, indices and registers shall contain such particulars as may also be prescribed.

Registration of public trusts.

18. (*1*) It shall be the duty of the trustee of a public trust to which this Act has been applied to make an application for the registration of the public trust.

(*2*) Such application shall be made to the Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the trustee has an office for the administration of the trust [1][or the trust property or substantial portion of the trust property is situated, as the case may be.]

(*3*) Such application shall be in writing, shall be in such form and accompanied by such fee as may be prescribed.

(*4*) Such application shall—

(*a*) in the case of a public trust created before this Act was applied to it, be made, within three months from the date of the application of this Act, and

(*b*) in the case of a public trust created after this Act comes into force, within three months of its creation.

(*5*) Such application shall *inter alia* contain the following particulars :—

[2][(*ai*) the designation by which the public trust is or shall be known (hereinafter referred to as the name of the public trust),]

(i) the names and addresses of the trustees and the manager,

(ii) the mode of succession to the office of the trustee,

(iii) the list of the moveable and immovable trust property and such descriptions and particulars as may be sufficient for the identification thereof,

(iv) the approximate value of the moveable and immovable property,

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[1] These words were added by Bom. 14 of 1951, s. 5.
[2] This clause was inserted by Bom. 23 of 1955, s. 2(*1*).

(v) the gross average annual income of the trust property estimated on the income of three years immediately preceding the date on which the application is made or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(vi) the amount of the average annual expenditure in connection with such public trust estimated on the expenditure incurred within the period to which the particulars under clause (v) relate,

(vii) the address to which any communication to the trustee or manager in connection with the public trust may be sent,

(viii) such other particulars which may be prescribed :

Provided that the rules may provide that in the case of any or all public trusts it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified therein.

(*6*) Every application made under sub-section (*1*) shall be signed and verified in the prescribed manner by the trustee or his agent specially authorised by him in this behalf. It shall be accompanied by a copy of an instrument of trust, if such instrument had been executed and is in existence.

[1][(*7*) It shall also be the duty of the trustee of the public trust to send memorandum in the prescribed form containing the particulars, including the name and description of the public trust, relating to the immovable property of such public trust, to the following officers and authorities for the purposes of registration in the registers maintained under section 28B, namely :—

XVI of 1908. (*i*) the sub-registrar of the sub-district appointed under the Indian Registration Act, 1908, in which such immovable property is situate ;

(*ii*) in the City of Bombay, the Collector of Bombay and elsewhere, the Mamlatdar of the taluka within the limits of which such immovable property is situate, and

Bom. VI of 1933. Bom. III of 1901. Bom. XVIII of 1925. Bom. III of 1888. Bom. LIX of 1949. (*iii*) the village panchayat constituted under the Bombay Village Panchayats Act, 1933, or the municipality constituted under the Bombay District Municipal Act 1901, or the Bombay Municipal Boroughs Act, 1925 or the municipal corporation constituted under the Bombay Municipal Corporation Act or the Bombay Provincial Municipal Corporations Act, 1949, within the local limits of which such immovable property is situate.

Such memorandum shall be sent within three months from the date of creation of the public trust and shall be signed and verified in the prescribed manner by the trustee or his agent specially authorised by him in this behalf.],

Inquiry for registration.

19. On the receipt of an application under section 18, or upon an application made by any person having interest in a public trust or on his own motion, the Deputy or Assistant Charity Commissioner shall make an inquiry in the prescribed manner for the purpose of ascertaining :—

[2][(i) whether a trust exists and whether such trust is a public trust],

(ii) whether any property is the property of such trust,

(iii) whether the whole or any substantial portion of the subject-matter of the trust is situate within his jurisdiction,

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[1] This sub-section was added by Bom. 23 of 1955, s. 2(2).
[2] This clause was substituted for the original by Bom. 14 of 1951, s. 6.

(iv) the names and addresses of the trustees and manager of such trust,

(v) the mode of succession to the office of the trustee of such trust,

(vi) the origin, nature and object of such trust,

(vii) the amount of gross average annual income and expenditure of such trust, and

(viii) any other particulars as may be prescribed under sub-section (5) of section 18.

Findings of Deputy or Assistant Charity Commissioners.

20. On completion of the inquiry provided for under section 19, the Deputy or Assistant Charity Commissioner shall record his findings with the reasons therefor as to the matters mentioned in the said section, [1][and may make an order for the payment of the registration fee].

Entries in register.

21. (*1*) The Deputy or Assistant Charity Commissioner shall make entries in the register kept under section 17 in accordance with the findings recorded by him under section 20 or if appeals [2][or applications] are made as provided by this Act, in accordance with the final decision of the competent authority provided by this Act.

(*2*) The entries so made shall, subject to the provisions of this Act and subject to any change recorded under the following provisions, be final and conclusive.

Change.

22. (*1*) Where any change occurs in any of the entries recorded in the register kept under section 17, the trustee shall, within 90 days from the date of the occurrence of such change, or where any change is desired in such entries in the interest of the administration of such public trust, report such change or proposed change to the Deputy or Assistant Charity Commissioner in charge of the Public Trusts Registration Office where the register is kept. Such report shall be made in the prescribed form.

(*2*) For the purpose of verifying the correctness of the entries in the register kept under section 17 or ascertaining whether any change has occurred in any of the particulars recorded in the register, the Deputy or Assistant Charity Commissioner may hold an inquiry.

(*3*) If the Deputy or Assistant Charity Commissioner, as the case may be, after receiving a report under sub-section (*1*) and holding an inquiry, if necessary under sub-section (*2*), or merely after holding an inquiry under the said sub-section (*2*), is satisfied that a change has occurred in any of the entries recorded in the register kept under section 17 in regard to a particular public trust, he shall record a finding with the reasons therefor to that effect. Such finding shall be appealable to the Charity Commissioner. The Deputy or Assistant Charity Commissioner shall amend the entries in the said register in accordance with such finding and if appeals [2][or applications] were made against such finding, in accordance with the final decision of the competent authority provided by this Act. The amendments in the entries so made shall, subject to any further amendment on the occurrence of a change, be final and conclusive.

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[1] These words were added by Bom. 28 of 1953, s. 3.
[2] These words were inserted by Bom. 14 of 1951, s. 7.

[1][22A. If at any time after the entries are made in the register under section 21 or 22 it appears to the Deputy or Assistant Charity Commissioner that any particular relating to any pubic trust, which was not the subject-matter of the inquiry under section 19, or sub-section (3) of section 22, as the case may be, has remained to be enquired into, the Deputy or Assistant Charity Commissioner, as the case may be, may make further inquiry in the prescribed manner, record his findings and make entries in the register in accordance with the decision arrived at or if appeals or applications are made as provided by this Act, in accordance with the decision of the competent authority provided by this Act. The provisions of sections 19, 20, 21 and 22 shall, so far as may be, apply to the inquiry, the recording of findings and the making of entries in the register under this section]. Further inquiry by Deputy or Assistant Charity Commissioner.

[2][22B. (1) In the case of a public trust,— Registration of trust property in the name of public trust, which has already been registered, etc.

(a) which is deemed to have been registered under this Act under section 28, or

(b) which has been registered under this Act before the date of the coming into force of the Bombay Public Trusts (Amendment) Act, 1955 (hereinafter referred to as the said date) on an application made under section 18, or Bom. 23 of 1955.

(c) in respect of which an application for registration has been made under section 18 and such application was pending on the said date,

the trustee of such public trust shall within three months from the said date make an application in writing for registration of the property of the public trust in the name of such trust and shall state in the application the name of the public trust.

(2) Such application shall be signed and verified in the prescribed manner by the trustee or his agent specially authorised by him in this behalf and made to the Deputy or Assistant Charity Commissioner who made entries in respect of such public trust in the register kept under section 17 or with whom the application for registration of the public trust was pending, as the case may be.

(3) On receipt of such application, the Deputy or Assistant Charity Commissioner shall—

(a) in the case of a public trust which is deemed to have been registered under section 28 or which has been registered under this Act before the said date specify the name of the public trust against the entries made in respect of such trust in the register kept under section 17, and

(b) in the case of a public trust the application for the registration of which was pending on the said date specify the name of the public trust at the time of making entries under section 21 in respect of such public trust in the register kept under section 17.

22C. In the case of a public trust,— Registration of particulars of immovable property of trusts already registered with certain officers and authorities.

(a) which is deemed to have been registered under this Act under section 28, or

(b) which has been registered under this Act before the coming into force of the Bombay Public Trusts (Amendment) Act, 1955 (hereinafter referred to as the said date) on an application made under section 18, or Bom. 23 of 1955.

(c) in respect of which an application has been made under section 18 and such application was pending on the said date,

[1] This section was inserted by Bom. 59 of 1954, s. 2.
[2] Sections 22B and 22C were inserted by Bom. 23 of 1955, s. 3.

the trustee of such public trust shall within three months from the said date send a memorandum in the prescribed form containing the particulars, including the name and description of the public trust, relating to the immovable property of such public trust to the officers and authorities specified in sub-section (7) of section 18 for the purposes of registration in the registers maintained under section 28B.

Such memorandum shall be signed and verified in the prescribed manner by the trustee or his agent specially authorised by him in this behalf.]

Procedure where trust property is situate in several regions or sub-regions.

23. If any part of the property of any public trust is situate within the limits of more than one region or sub-region, the Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the public trust is registered, shall forward a copy of the entries to the Deputy or Assistant Charity Commissioner in charge of the region or sub-region within the limits of which such part of the trust property is situate. The Deputy or Assistant Charity Commissioner in charge of such region or sub-region shall make an entry in such book as may be prescribed for the purpose. A copy of such entry shall also be sent by the Deputy or the Assistant Charity Commissioner, as the case may be, to the Sub-Registrar appointed under the Indian Registration Act, 1908, of the sub-district within the limits of which such property or part thereof is situate. XVI of 1908.

Stay of inquiry.

24. No Deputy or Assistant Charity Commissioner shall proceed with an inquiry under section 19 or 22 in regard to any public trust which has been already registered in any other region or sub-region.

Inquiry regarding public trust not to be held by more than one Deputy or Assistant Charity Commissioner.

25. (*1*) If an inquiry under section 19 or 22 in regard to any public trust is pending before more than one Charity Commissioner whether Deputy or Assistant, the Charity Commissioner shall, on the application of any of the persons having interest in such public trust or of any Deputy or Assistant Charity Commissioner before whom such inquiry is pending or on his own motion, determine which of such Deputy or Assistant Charity Commissioner shall proceed with the inquiry in regard to such trust.

(*2*) The determination of the Charity Commissioner under sub-section (*1*) shall be final and conclusive ; and upon such determination, no Deputy or Assistant Charity Commissioner other than the Deputy or Assistant Charity Commissioner specified by the Charity Commissioner shall proceed with the inquiry in regard to the public trust under section 19 or 22, as the case may be.

Court to forward copy of decision to Charity Commissioner.

26. Any Court of competent jurisdiction deciding any question relating to any public trust which by or under the provisions of this Act is not expressly or impliedly barred from deciding shall cause copy of such decision to be sent to the Charity Commissioner and the Charity Commissioner shall cause the entries in the register kept under section 17 to be made or amended in regard to such public trust in accordance with such decision. The amendments so made shall not be altered except in cases where such decision has been varied in appeal or revision by a court of competent jurisdiction. Subject to such alterations, the amendments made shall be final and conclusive.

27. [*Stamping of scrips.*] *Repealed by Bom. 39 of 1951, s. 2, First Schedule.*

Public trust previously registered under enactments specified in Schedule.

28. (*1*) All public trusts registered under the provisions of any of the enactments specified in [1][Schedule A] shall be deemed to have been registered under this Act from the date on which this Act may be applied to them. The Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which [2][a public trust had been registered under any of the said enactments] shall issue notice to the trustee of such trust for the purpose of recording entries relating to such trust in the register kept under section 17 and shall after hearing the trustee and making such inquiry as he thinks fit record findings with the reasons therefor. Such findings shall be in accordance with the entries in the registers already made under the said enactments subject to such changes as may be necessary or expedient.

(*2*) Any person aggrieved by any of the findings recorded under sub-section (*1*) may appeal to the Charity Commissioner.

(*3*) The provisions of this Chapter shall, so far as may be, apply to the making of entries in the register kept under section 17 and the entries so made shall be final and conclusive.

Copy of entries relating to immovable property to be sent to sub-registrar, revenue and local authorities.

[3][**28A.** The Deputy or Assistant Charity Commissioner shall send a memorandum in the prescribed form containing entries including the entry of the name and description of the public trust, relating to immovable property of such public trust made by him in the register kept under section 17—

XVI of 1908. (*i*) to the sub-registrar of the sub-district appointed under the Indian Registration Act, 1908, in which such immovable property is situate,

(*ii*) in the City of Bombay, to the Collector of Bombay and elsewhere, to the Mamlatdar of the taluka within the limits of which such immovable property is situate, and

[1] This word and letter were substituted for the words "the Schedule" by Bom. 14 of 1951, s. 8 (*i*).
[2] These words were substituted for the words "the trust property or the substantial portion of the trust property is situate," *ibid.*, s. 8(*ii*).
[3] Sections 28A and 28B were inserted by Bom. 23 of 1955, s. 4.

(*iii*) to the village panchayat constituted under the Bombay Village Panchayats Act, 1933, or the municipality constituted under the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or the municipal corporation constituted under the Bombay Municipal Corporation Act or the Bombay Provincial Municipal Corporations Act, 1949, within the local limits of which such immovable property is situate.

Bom. VI of 1933. Bom. III of 1901. Bom. XVIII of 1925. Bom. III of 1888. Bom. LIX of 1949.

Duty of certain officers and authorities to maintain registers of trust property.

28B. (*1*) Notwithstanding anything contained in any law for the time being in force, it shall be the duty of the officers and authorities specified in sub-section (*7*) of section 18 to keep and maintain a separate register of the memoranda sent to them under sub-section (*7*) of section 18, and sections 22C and 28A in such manner as may be prescribed.

(*2*) Any person shall be entitled to inspect and to take extracts from any register maintained under this section on payment of such fee and subject to such conditions as may be prescribed.]

Public trust created by will.

29. In the case of the public trust which is created by a will, the executor of such will shall within one month from the date on which the probate of the will is granted or within six months from the date of the testator's death [1][whichever is earlier] make an application for the registration in the manner provided in section 18 and the provisions of this Chapter shall *mutatis mutandis* apply to the registration of such trust :

[2][Provided that the period prescribed herein for making an application for registration may, for sufficient cause, be extended by the Deputy or Assistant Charity Commissioner concerned.]

Notice of particulars of immovable [4]* * property entered in register.

30. Any person acquiring any immovable property [3]* * belonging to a public trust which has been registered under this Chapter or any part of or any share or interest in such property [3]* * of such trust shall be deemed to have notice of the relevant particulars relating to such trust entered in the register, [5][or in the registers maintained under section 28B.]

[6][*Explanation.*—For the purposes of this section, a person shall be deemed to have notice of any particulars in the registers,—

(*1*) when he actually knows the said particulars or when, but for wilful abstention from any inquiry or search which he ought to have made, or gross negligence, he would have known them;

(*2*) if his agent acquires notice thereof whilst acting on his behalf in the course of business to which the fact of such particulars is material.]

Bar to hear or decide suits.

31. (*1*) No suit to enforce a right on behalf of a public trust which has not been registered under this Act shall be heard or decided in any Court.

(*2*) The provisions of sub-section (*1*) shall apply to a claim of set off or other proceeding to enforce a right on behalf of such public trust.

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[1] These words were inserted by Bom. 14 of 1951, s. 9 (*i*).
[2] This proviso was added, *ibid.*, s. 9 (*ii*).
[3] The words " or scrip " were deleted by Bom. 39 of 1951, s. 2, First Schedule.
[4] The words "and scrips " were deleted, *ibid.*
[5] These words, figures and letter were inserted by Bom. 23 of 1955, s. 5 (*1*).
[6] This Explanation was added, *ibid.*, s. 5(*2*).

CHAPTER V.

ACCOUNTS AND AUDIT.

Maintenance of accounts.

32. (*1*) Every trustee of a public trust which has been registered under this Act shall keep regular accounts.

(*2*) Such accounts shall be kept in such form as may be approved by the Charity Commissioner and shall contain such particulars as may be prescribed.

Balancing and auditing of accounts.

33. (*1*) The accounts kept under section 32 shall be balanced each year on the thirty-first day of March or such other day, as may be fixed by the Charity Commissioner.

(*2*) The accounts shall be audited annually in such manner as may be prescribed and by a person [1][who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949] or by such persons as may be authorised in this behalf by the State Government.

XXXVIII of 1949.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession of or under the control of the [2][trustee].

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[1] These words and figures were substituted for the original words by Bom. 14 of 1951, s. 10.
[2] This word was substituted for the word "manager" by Bom. 28 of 1953, s. 4(*1*).

(*4*) Notwithstanding anything contained in the preceding sub-sections,—

[1][(*a*)] the Charity Commissioner may direct a special audit of the accounts of any public trust whenever in his opinion such special audit is necessary. The provisions of sub-sections (*2*) and (*3*) shall, so far as may be applicable, apply to such special audit. The Charity Commissioner may direct the payment of such fee as may be prescribed for such special audit; [2][and

(*b*) the State Government may, by general or special order, exempt any public trust or class of public trusts from the provisions of sub-section (*2*), subject to such conditions as may be specified in the order.]

Auditor's duty to prepare balance sheet and to report irregularities, etc.

34. (*1*) It shall be the duty of every auditor auditing the accounts of a public trust under section 33 to prepare a balance sheet and income and expenditure account and to forward a copy of the same to the Deputy or Assistant Charity Commissioner of the region or sub-region or to the Charity Commissioner, if the Charity Commissioner requires him to do so.

(*2*) The auditor shall in his report specify all cases of irregular, illegal or improper expenditure, or failure or omission to recover moneys or other property belonging to the public trust or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of a breach of trust, or misapplication or any other misconduct on the part of the trustees, or any other person.

Investment of public trust money.

35. [3][(*1*)] Where the trust property consists of money and cannot be applied immediately or at any early date to the purposes of the public trust the trustee shall be bound [4][(notwithstanding any direction contained in the instrument of the trust) to deposit the money in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, in the Postal Savings Bank or in a co-operative bank approved by the State Government for the purpose or to invest it in public securities] :

II of 1934.

Provided that such money may be invested in the first mortgage of immovable property situate in a Part A State or a Part C State if the property is not leasehold for a term of years and the value of the property exceeds by one-half the mortgage money :

Provided further that the Charity Commissioner may by general or special order permit the trustee of any public trust or classes of such trusts to invest the money in any other manner.

[5][(*2*) Nothing in sub-section (*1*) shall affect any investment or deposit already made before the coming into force of the Bombay Public Trusts (Amendment) Act, 1954, in accordance with a direction contained in the instrument of the trust :

Bom. of 59 1954.

Provided that any interest or dividend received or accruing from such investment or deposit on or after the coming into force of the said Act or any sum realized on the maturity of the said investment or deposit shall be applied or invested in the manner prescribed in sub-section (*1*).]

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[1] The brackets and letter "(*a*)" were inserted by Bom. 28 of 1953, s. 4 (*2*).
[2] This word and clause (*b*) were added, *ibid.*
[3] This section was renumbered as sub-section (*1*) of that section by Bom. 59 of 1954, s. 3 (*1*).
[4] This portion was substituted for the original, *ibid.*
[5] This sub-section was inserted, *ibid.*, s. 3 (*2*).

Alienation of immovable property of public trust.

36. Subject to the directions in the instrument of trust—

(*a*) no sale, mortgage, exchange or gift of any immovable property, and

(*b*) no lease for a period exceeding ten years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or a building,

belonging to a public trust, shall be valid without the previous sanction of the Charity Commissioner.

CHAPTER VI.

CONTROL.

Power of inspection and supervision.

37. The Charity Commissioner, the Deputy or Assistant Charity Commissioner or any officer authorised by the State Government by a general or special order shall have power—

(*a*) to enter on and inspect or cause to be entered on and inspected any property belonging to a public trust;

(*b*) to call for or inspect any extract from any proceedings of the trustees of any public trust and any book or account in the possession of or under the control of the trustees;

(*c*) to call for any return, statement, account or report which he may think fit from the trustees or any person connected with a public trust:

Provided that in entering upon any property belonging to the public trust the officers making the entry shall give reasonable notice to the trustee and shall have due regard to the religious practices or usages of the trust.

Explanation on report of auditor.

38. On receipt of a report of the auditor under section 34 [1][or of a report, if any, made by an officer authorized under section 37] the Deputy or Assistant Charity Commissioner, to whom the report is submitted shall require the trustee or any other person concerned to submit an explanation thereon within such period as he thinks fit.

Report to Charity Commissioner.

39. If on the consideration [2][of any report referred to in section 38], the accounts and explanation, if any, furnished by the trustees or any other person, the Deputy or Assistant Charity Commissioner is, after holding an inquiry in the prescribed manner, satisfied that the trustees or any other person has been guilty of gross negligence, a breach of trust, misapplication or misconduct which has resulted in the loss to the public trust, he shall report the matter to the Charity Commissioner.

Decision of Charity Commissioner on report under section 39.

40. The Charity Commissioner shall, after considering the report of the Deputy or Assistant Charity Commissioner, giving an opportunity to the person concerned and holding such inquiry as he thinks fit, determine—

(*a*) the amount of loss caused to a public trust;

(*b*) whether such loss was due to any breach of trust, misapplication or misconduct on the part of any person;

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[1] These words and figures were inserted by Bom. 28 of 1953, s. 5.

[2] These words and figures were substituted for the words "of the report of the auditor", *ibid.*, s. 6.

(*c*) whether any of the trustees, or any other person was responsible for such loss :

(*d*) the amount which any of the trustees or any other person is liable to pay to the public trust for such loss.

Order of surcharge.

41. (*1*) If the Charity Commissioner decides that any person is liable to pay to the public trust any amount for the loss caused to the trust, the Charity Commissioner may direct that the amount shall be surcharged on the person.

(*2*) Subject to the provisions of section 72, the order of the Charity Commissioner under sub-section (*1*) shall be final and conclusive.

CHAPTER VII.

Other Functions and Powers of Charity Commissioner.

Charity Commissioner to be corporation sole.

42. The Charity Commissioner shall be a corporation sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name.

Charity Commissioner to be Treasurer of Charitable Endowments under Act VI of 1890.

VI of 1890.

43. Notwithstanding anything contained in the Charitable Endowments Act, 1890, the Charity Commissioner shall be deemed to be and to have always been the Treasurer of Charitable Endowments for the State of Bombay appointed under the provisions of the said Act, and the property vesting in the said Treasurer before the date on which this Act comes into force shall be deemed to vest in the Charity Commissioner as the Treasurer of Charitable Endowments ; and the provisions of the said Act shall apply to the Charity Commissioner, as the Treasurer of Charitable Endowments appointed under the said Act.

Charity Commissioner can act as trustee of public trusts.

44. (*1*) Subject to the provisions of this Act [1][and] the rules made thereunder the Charity Commissioner may be appointed to act as a trustee of a public trust by a Court of competent jurisdiction or by the author of the trust.

(*2*) Save as herein provided, the Charity Commissioner acting as a trustee of a public trust shall have the same powers, duties and liabilities, and be entitled to the same rights and privileges as any other trustee of a public trust.

(*3*) The Charity Commissioner may decline, either absolutely or except on such conditions as he may impose, to accept any trust.

(*4*) The Charity Commissioner shall be the sole trustee and it shall not be lawful to appoint him as a trustee along with other persons.

Charity Commissioner may with consent be appointed trustee of settlement by grantor.

45. (*1*) Any person intending to create a public trust may by the instrument creating the trust and with the consent of the Charity Commissioner appoint him by that name or any other description to be the trustee of such trust :

Provided that the consent of the Charity Commissioner shall be recited in the said instrument and that such instrument shall be executed by the Charity Commissioner or any officer duly authorised by him in that behalf.

[1] This word was substituted for the word "or" by Bom. 14 of 1951, s. 11.

(2) Upon such appointment the trust property shall vest in the Charity Commissioner and shall be held by him upon the terms declared in such instrument.

Appointment of Charity Commissioner as trustee under will.

46. Where the Charity Commissioner by that name or any other sufficient description has been appointed a trustee of any public trust under any will, the executor of the will of the testator or the administrator of his estate shall [1][within a period of three months from the date of] obtaining probate or letters of administration, notify in the prescribed manner, the contents of such will to the Charity Commissioner and if the Charity Commissioner consent to accept the trust, then upon the execution by such executor or administrator of an instrument in writing transferring the property subject to the trust to the Charity Commissioner, such property shall vest in the Charity Commissioner and shall be held by him upon the trust expressed in the will:

Provided that the consent of the Charity Commissioner shall be recited in the instrument and that such instrument shall be executed by the Charity Commissioner or any officer duly authorised by him in that behalf:

[2][Provided further that where, under any law for the time being in force, no probate or letters of administration are necessary for the administration of the estate of the testator, the executor or administrator, as the case may be, shall notify the contents of the will within the period of three months from the time when contents of the will became known to him.]

Power of Court to appoint new trustee or trustees, as the case may be.

47. (1) Any person interested in a public trust or the Charity Commissioner may apply to the Court for the apopintment of a new trustee, when a trustee of such trust—

(*a*) disclaims or dies;

(*b*) is for a continuous period of six months absent from India without the leave of the Charity Commissioner or Deputy or Assistant Charity Commissioner or the Officer authorised by the State Government in this behalf;

(*c*) leaves India for the purpose of residing abroad;

(*d*) is declared an insolvent;

(*e*) desires to be discharged from the trust;

(*f*) refuses to act as a trustee;

(*g*) becomes in the opinion of the Court unfit or physically incapable to act in the trust or accepts a position which is inconsistent with the trust; or

(*h*) in any of the cases mentioned in Chapter III is not available to administer the trust.

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[1] These words were substituted for the word "after" by Bom. 14 of 1951, s. 12 (*i*).
[2] This proviso was added, *ibid.*, s. 12 (*ii*).

(*2*) No such application shall be entertained,—

(*a*) unless the trustee who on account of any of the reasons mentioned in clauses (*a*) to (*h*) of sub-section (*1*) is not fit or available to administer the trust is the sole trustee or unless by the vacation of office by one or more trustees on account of any of the said reasons the minimum number of trustees required by the instrument, scheme, order or decree of the Court or usage or custom of the trust for the administration of the trust is reduced ;

(*b*) (*i*) until the expiration of a period of three months from the date on which the trustee is not so fit or available to administer the trust ; and

(*ii*) if a new trustee has been appointed in the said office during the said period in accordance with the instrument, scheme, order or decree of the Court, or custom or usage of the trust.

(*3*) The Court after making an inquiry [1][may by order appoint] the Charity Commissioner or any other person as the trustee to fill up the vacancy.

(*4*) In appointing the trustee under sub-section (*3*) the Court shall have regard—

(*a*) to the wishes of the author of the trust ;

(*b*) to the wishes of the person, if any, empowered to appoint a new trustee;

(*c*) to the question whether the appointment will promote or impede the execution of the trust;

(*d*) to the interest of the public or the section of the public who have interest in the trust; and

(*e*) to the custom and usage of the trust.

(*5*) Where the Charity Commissioner is appointed a trustee, he shall be the sole trustee.

(*6*) The [2][order] of the Court under sub-section (*3*) shall be deemed to be the decree of the Court and an appeal shall lie therefrom to the High Court.

[3][**47A.** It shall be lawful for the Court upon making any order appointing a new trustee under sub-section (*3*) of section 47, either by the same or by any subsequent order to direct that any property subject to the trust shall vest in the person so appointed.] Power to Court to vest property in new trustee.

[4][**47B.** Nothing in section 44 or 47— Court not to appoint Charity Commissioner as trustee of religious trust and Charity Commissioner not to accept such trust if management of religious affairs is involved.

(*a*) shall empower any Court to appoint the Charity Commissioner to be a trustee of any public trust for a religious purpose, or

(*b*) shall entitle the Charity Commissioner to accept any trust, if such acceptance requires the Charity Commissioner to manage the affairs of any religious denomination or any section thereof in the matter of religion :

Provided that if the author of the public trust for a religious purpose so intends, or the person or the authority in whom or which the property of such public trust vests deems it expedient in public interest, the Court may appoint the Charity Commissioner the sole trustee of such public trust or the Charity Commissioner may accept such trust.]

48. (*1*) When the Charity Commissioner is appointed a trustee of any public trust, there shall be levied such administrative charges whether by way of percentage or otherwise, as the State Government may prescribe. Levy of administrative charges.

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[1] These words were substituted for the words " may appoint " by Bom. 28 of 1953, s. 7 (*1*).
[2] This word was substituted for the word " decision ", *ibid.*, s. 7(*2*).
[3] Section 47A was inserted, *ibid.*, s. 8.
[4] Section 47B was inserted by Bom. 59 of 1954, s. 4.

(*2*) The charges so levied may be at different rates for different properties or classes of properties or for different duties.

Transfer of property by Charity Commissioner.

49. (*1*) Nothing in this Act shall be deemed to prevent the transfer, by the Charity Commissioner, of any property vested in him as a trustee, to—

(*a*) the original trustee (if any),

(*b*) any other lawfully appointed trustee, or

(*c*) any other person, if the court so directs.

(*2*) Upon such transfer, such property shall vest in such trustee and shall be held by him upon the same terms as those upon which it was held prior to the transfer and the Charity Commissioner shall be exempt from all liability as trustee of such property except in respect of acts done before such transfer :

Provided that in the case of any transfer under this section, the Charity Commissioner shall be entitled to retain out of the property any fees and administrative charges leviable in accordance with the provisions of this Act.

Suits relating to public trusts.

50. In any case—

(*i*) where it is alleged that there is a breach of a public trust,

(*ii*) where a declaration is necessary that a particular property is a property belonging to a public trust or where a direction is required to recover the possession of such property [1][or the proceeds thereof or for an account of such property or proceeds] from any person including a person holding adversely to the public trust, or

(*iii*) where the direction of the court is deemed necessary for the administration of any public trust,

the Charity Commissioner or two or more persons having an interest in the trust and having obtained the consent in writing of the Charity Commissioner as provided in section 51 may institute a suit whether contentious or not in the court within the local limits of whose jurisdiction the whole or part of the subject matter of the trust is situate, to obtain a decree for any of the following reliefs :—

(*a*) an order for the recovery of the possession of such property [2][or proceeds thereof]

(*b*) the removal of any trustee or manager,

(*c*) the appointment of a new trustee or manager,

[3][(*cc*) vesting any property in a trustee],

(*d*) a direction for taking accounts and making certain inquiries,

(*e*) a declaration as to what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust,

(*f*) a direction authorising the whole or any part of the trust property to be let, sold, mortgaged or exchanged,

(*g*) the settlement of a scheme or variations or alterations in a scheme already settled, or

(*h*) granting such further or other relief as the nature of the case may require :

Provided that no suit claiming any of the reliefs specified in this section shall be instituted in respect of any public trust except in conformity with the provisions thereof.

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[1] These words were inserted by Bom. 23 of 1955, s. 6 (*1*).
[2] These words were added, *ibid*, s. 6 (*2*).
[3] Clause (cc) was inserted by Bom. 28 of 1953, s. 9.

Consent of Charity Commissioner for institution of suit.

51. (*1*) If the persons having an interest in any public trust intend to file a suit of the nature specified in section 50, they shall apply to the Charity Commissioner in writing for his consent. The Charity Commissioner, after hearing the parties and after making such inquiry as he thinks fit, may within a period of six months from the date on which the application is made, grant or refuse his consent to the institution of such suit. The order of the Charity Commissioner refusing his consent shall be in writing and shall state the reasons for the refusal.

(*2*) If the Charity Commissioner refuses his consent to the institution of the suit under sub-section (*1*) the persons applying for such consent may file an appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939, in the manner provided by this Act.

Bom. XII of 1939.

(*3*) In every suit filed by persons having interest in any trust under section 50, the Charity Commissioner shall be a necessary party.

(*4*) Subject to the decision of the Bombay Revenue Tribunal in appeal under section 71, the decision of the Charity Commissioner under sub-section (*1*) shall be final and conclusive.

Non-application of sections 92 and 93 of Civil Procedure Code to public trusts.

V of 1908.

52. [1][(*1*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the provisions of sections 92 and 93 of the said Code shall not apply to the public trusts :

[2][[3][(*2*) If]] on the date of the application of the Act to any public trust any legal proceedings in respect of such trust are pending before [4][any Civil Court of competent jurisdiction] to which the Advocate General or the Collector exercising the powers of the Advocate General is a party, the Charity Commissioner shall be deemed to be substituted in those proceedings for the Advocate General or the Collector, as the case may be, and such proceedings shall be disposed of by such Court.]

[5][(*3*) Any reference to the Advocate General made in any instrument, scheme, order or decree of any Civil Court of competent jurisdiction made or passed, whether before or after the said date, shall be construed as a reference to the Charity Commissioner.]

Suit against assignee for valuable consideration not barred by time.

IX of 1908.

[6][**52A.** Notwithstanding anything contained in the Indian Limitation Act, 1908, no suit against an assignee for valuable consideration of any immovable property of the public trust which has been registered or is deemed to have been registered under this Act for the purpose of following in his hands, such property or the proceeds thereof, or for an account of such property or proceeds, shall be barred by any length of time.]

Bequest under will for benefit of public trust.

53. (*1*) Where under any will a bequest has been made in favour of a public trust or where such bequest itself creates a public trust, it shall be the duty of the executor under the will to forward a copy thereof to the Deputy or Assistant Charity Commissioner for the region or sub-region where [7][such trust] may have been, or is required to be, registered.

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[1] Section 52 was re-numbered as sub-section (*1*) of that section by Bom. 28 of 1953, s. 10 (*1*).
[2] This portion was added by Bom. 14 of 1951, s. 13.
[3] The brackets, figure and word "(*2*) If" were substituted for the words "Provided that if" by Bom. 28 of 1953, s. 10 (*1*).
[4] These words were substituted for the words "Any Court including the High Court", *ibid.*, s. 10 (*2*).
[5] Sub-section (*3*) was inserted, *ibid.*, s. 10 (*3*).
[6] This section was inserted by Bom. 23 of 1955, s. 7.
[7] These words were substituted for the words "such will", by Bom. 28 of 1953, s. 11.

(*2*) No probate of any such will or letters of administration with such will annexed shall be granted by any Court whatsoever unless it is satisfied that a copy of such will has been forwarded to the Deputy or Assistant Charity Commissioner as provided by sub-section (*1*).

Dharmada.

54. (*1*) Where according to the custom or usage of any business or trade or the agreement between the parties relating to any transaction any amount is charged to any party to the said transaction or collected under whatever name, as being intended to be used for a charitable or religious purpose the amount so charged or collected [1][(in this Act called— " dharmada ")] shall vest in the person charging or collecting the same as a trustee.

(*2*) Any person charging or collecting such sums shall within three months from the expiration of the year for which his accounts are ordinarily kept submit an account in such form as may be prescribed to the Deputy or Assistant Charity Commissioner.

(*3*) The Deputy or Assistant Charity Commissioner shall have power to make such inquiry as he thinks fit to verify the correctness of the account submitted and may pass order for the disposal of the amount in the manner prescribed.

[2][(*4*) The provisions of Chapter IV shall not apply to dharmada.]

Cypres.

55. (*1*) [3][If upon an application made to him or otherwise] the Charity Commissioner is of opinion that—

(*a*) the original object for which the public trust was created has failed,

(*b*) the income or any surplus balance of any public trust has not been utilized or is not likely to be utilized,

(*c*) [4][in the case of a public trust other than a trust for a religious purpose, it is not in public interest] expedient, practicable, desirable, necessary or proper to carry out wholly or partially the original intention of the author of the public trust or the object for which the public trust was created and that the property or the income of the public trust or any portion thereof should be applied to any other charitable or religious object,

(*d*) in any of the cases mentioned in sections 10 to 13 or in regard to the appropriation of the dharmada sums held in trust under section 54 the directions of the court are necessary,

the Charity Commissioner shall [5][require the trustees to apply within the prescribed time for directions to the Court within the local limits of whose jurisdiction the whole or part of the subject matter of the trust is situate.]

(*2*) If the trustees fail to make the application as required under sub-section (*1*) or if the Charity Commissioner himself is a trustee or if there is no trustee of the public trust, the Charity Commissioner shall make an application to the court.

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[1] These brackets and words were inserted by Bom. 14 of 1951, s. 14(*i*).
[2] Sub-section (4) was added, *ibid.*, s. 14 (*ii*).
[3] These words were substituted for the words " If at any time " by Bom. 28 of 1953, s. 12 (*i*).
[4] These words were substituted for the words " it is not in public interest " by Bom. 59 of 1954, s. 5.
[5] These words were substituted for the words " give notice in writing to the trustees to apply to the Court within the time prescribed for directions " by Bom. 28 of 1953, s. 12 (*ii*).

Court's power to hear application.

56. (*1*) On such application being made, the court after hearing the parties and making an inquiry shall decide the matter and shall give directions. In giving the directions, the court shall, so far as may be expedient, practicable, desirable [1][, necessary or proper] in public interest, give effect to the original intention of the author of the public trust or the object for which the public trust was created. If the Court is of opinion that the carrying out of such intention or object is not wholly or partially expedient, practicable, desirable [1][, necessary or proper] in public interest the court may direct the property or income of the public trust or any portion thereof to be applied *cypres* to any other charitable or religious object. In doing so, it shall be lawful for the court to alter any scheme already settled to to vary the terms of any decree or order already passed in respect of the public trust or the conditions contained in the instrument of the public trust.

(*2*) Any decision or order passed by the court under sub-section (*1*) shall be deemed to be a decree of such court and an appeal shall lie therefrom to the High Court.

Powers of trustee to apply for directions.

[2]**56A.** (*1*) Save as hereinbefore provided in this Act, any trustee of a public trust may apply to the Court, within the local limits of whose jurisdiction the whole or part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court on any question affecting the management or, administration of the trust property or income thereof, and the Court shall give its opinion, advice, or direction, as the case may be, thereon :

Provided that the Court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.

(*2*) The Court, on an application under sub-section (*1*), may give its opinion, advice or direction thereon after giving notice to the Charity Commissioner. The Court before giving any opinion, advice or direction shall afford a reasonable opportunity of being heard to all persons appearing in connection with the application.

(*3*) A trustee stating in good faith the facts of any matter relating to the trust in an application under sub-section (*1*), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the application was made.

(*4*) No appeal shall lie against any opinion, advice or direction given under this section.

Proceedings involving question affecting public charitable or religious purpose.

56B. (*1*) In any suit or legal proceedings in which it appears to the Court that any question affecting a public religious or charitable purpose is involved, the Court shall not proceed to determine such question until after notice has been given to the Charity Commissioner.

(*2*) If upon the receipt of such notice or otherwise the Charity Commissioner makes any application in that behalf, he shall be added as a party at any stage of such suit or proceedings.

(*3*) In this section "Court" shall mean any Civil Court of competent jurisdiction in the State of Bombay.]

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[1] These words were substituted for the words "or necessary" by Bom. 59 of 1954, s. 6.
[2] Sections 56A and 56B were inserted by Bom. 28 of 1953, s. 13.

CHAPTER VIII.

PUBLIC TRUSTS ADMINISTRATION FUND.

Public Trusts Administration Fund.

57. (*1*) There shall be established a fund to be called the Public Trusts Administration Fund. The Fund shall vest in the Charity Commissioner.

(*2*) The following sums shall be credited to the said Fund, namely :—

(*a*) fees and administrative charges leviable under sections 18 and 48 ;

(*b*) contributions made under section 58 ;

(*c*) the amount from the funds or the portion thereof credited under section 61 ;

(*d*) any sum received from a private person ;

(*e*) any sum allotted by the State Government or any local authority ; and

(*f*) any other sum which may be directed to be credited by or under the provisions of this Act.

Contribution by public trusts to Public Trusts Administration Fund.

58. Every public trust shall pay to the Public Trusts Administration Fund annually such contribution on such date and in such manner as may be prescribed :

[1][Provided that the contribution prescribed under this section shall,—

(*i*) in the case of a dharmada, be fixed at rates in proportion to the gross annual collection or receipts of the dharmada ;

(*ii*) in the case of other public trusts, be fixed at rates in proportion to the gross annual income of such public trust.]

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[1] This proviso was substituted for the original by Bom. 14 of 1951, s. 15 (*1*).

[1][*Explanation.*—For the purposes of this section, the gross annual income shall include gross income from all sources in a year excluding donations given or offerings made with a specific direction that they shall form part of the corpus of the public trust :

Provided that the interest or income accruing from such donations or offerings in the years following that in which they were given or made shall be taken into account in calculating the gross annual income.]

Penalties as recovery of contribution.

59. (*1*) If the trustee of a public trust (other than the Charity Commissioner) [2][or the person charging or collecting dharmada] fails to pay the contribution under section 58, he shall be liable to penalties provided in section 66.

(*2*) The Charity Commissioner may also make an order directing the bank in which or any person with whom any moneys belonging to the public trust are deposited to pay the contribution from such moneys as may be standing to the credit of the public trust or may be in the hands of such person or may from time to time be recovered from or on behalf of the public trust by way of deposit by such bank or person and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the public trust in respect of any sum or sums so paid by it or him out of the moneys belonging to the public trust so deposited with the bank or person.

(*3*) Any bank or person who has been ordered under sub-section (*2*) to make the payment may appeal to the State Government and the State Government may, after making such inquiry as it thinks fit, confirm, modify or cancel such order.

Application of Public Trusts Administration Fund.

60. (*1*) The Public Trusts Administration Fund shall, subject to the provisions of this Act and subject to the general or special order of the State Government, be applicable to the payment of charges for expenses incidental to the regulation of public trusts and generally for carrying into effect the provisions of this Act.

(*2*) The custody and investment of the moneys to be credited to the Public Trusts Administration Fund and the disbursement and payment there from shall be regulated and made in the prescribed manner.

State Government to direct crediting of funds constituted under any Act in Schedule to Public Trusts Administration Fund constituted under this Chapter.

61. On the application of this Act to any public trust or class of public trusts which may have been registered under any of the Acts specified in [3][Schedule A] the State Government may direct that the amount of any fund for the administration of public trusts constituted under the said Act for the region or sub-region in which public trust or class of public trusts was registered or any portion thereof shall be credited to the Public Trusts Administration Fund constituted under this Chapter.

CHAPTER IX.

ASSESSORS.

Lists of Assessors.

62. (*1*) On such date as may be prescribed, the Deputy or Assistant Charity Commissioner shall prepare lists of persons liable to serve as assessors.

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[1] This Explanation was added by Bom. 14 of 1951, s. 15 (*2*).
[2] These words were inserted, *ibid.*, s. 16.
[3] This word and letter were substituted for the words "the Schedule", *ibid.*, s. 17.

(2) Every person between the ages of 25 and 65 shall, except as may be prescribed by rules, be liable and serve as an assessor under this Act.

(3) In the preparation of the lists, regard shall be had to the property, character, education, and religion of persons whose names are entered therein.

(4) The lists so prepared shall be submitted to the Charity Commissioner and when approved by him shall be published in the *Official Gazette*.

(5) The lists published under sub-section (4) shall be in operation for a period of three years :

Provided that the Charity Commissioner may before the expiry of the said period direct any additions or alterations to be made therein.

(6) The lists published under sub-section (4) shall, notwithstanding anything contained in sub-section (5) be deemed to be valid and in operation for a further period of one year or until new lists are prepared in substitution thereof, whichever period expires first.

Person summoned to attend at the time and place specified.

63. Every person summoned to serve as an assessor by the Deputy or Assistant Charity Commissioner shall attend at the time and place when and where he is so summoned to attend, unless he is prevented from such attendance by a reasonable excuse.

Cases in which assessors shall be summoned.

64. In the following proceedings assessors shall be summoned to assist and advise the Charity Commissioner, Deputy or Assistant Charity Commissioner, as the case may be, namely :—

[1][(*a*) an inquiry under section 19 or an inquiry under section 22 relating to a public trust other than a society referred to in section 2 (*13*) ;]

[2]* * * * *

(*c*) an inquiry regarding the loss caused to a public trust in consequence of the act or conduct of a trustee or any other person under section 40 ;

(*d*) any other inquiry in which by rules or a general or special order made by the State Government in this behalf, the assessors are required to assist and advise the Charity Commissioner, the Deputy or Assistant Charity Commissioner or any other officer appointed under this Act :

[3][Provided that in inquiries specified in clause (*a*) where no contest is involved the Deputy or Assistant Charity Commissioner may for reasons to be recorded in writing order that assessors shall not be so summoned.]

Number of assessors to be called.

65. (*1*) The Deputy or Assistant Charity Commissioner shall choose such number of assessors not less than three and not more than five as he deems fit to aid and assist him. In any inquiry relating to a public trust which is for the benefit of the members belonging to a particular religious denomination, the assessors chosen shall, as far as may be practicable, belong to the said religious denomination.

(2) At the conclusion of the inquiry he shall record their opinion in writing and require them to sign it. The opinion so recorded shall form part of the proceedings and due consideration shall be given to it in passing an order or arriving at a decision or making a report in the inquiry.

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[1] Clause (*a*) was substituted for the original by Bom. 28 of 1953, s. 14 (*1*).
[2] Clause (*b*) was deleted, *ibid.*, s. 14 (*2*).
[3] This proviso was added, *ibid.*, s. 14 (*3*).

(*3*) If in the course of any inquiry at any time before its conclusion, any assessor is from any sufficient cause, prevented from attending throughout the inquiry or absents himself and it is not practicable to enforce the attendance, the inquiry may be proceeded with the aid of the other assessor or assessors.

(*4*) If all the assessors are prevented from attending or absent themselves, without sufficient cause, the inquiry shall be proceeded with the aid of fresh assessors :

Provided that if the Deputy or Assistant Charity Commissioner holding the inquiry is satisfied that for sufficient and adequate reasons the inquiry need not be delayed, he shall complete the inquiry and shall report the matter to the Charity Commissioner.

(*5*) The assessors shall be entitled to such allowances as may be prescribed.

CHAPTER X.

Offences and Penalties.

66. Whoever contravenes any provision of any of the sections mentioned in the first column of the following table shall, on conviction, for each such offence be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table. Penalty

Explanation.—The entries in the second column of the said table headed " Subject " are not intended as the definitions of offences described in the sections mentioned in the first column or even as abstracts of those sections, but are inserted merely as references to the subject of the sections, the numbers of which are given in the first column :

Table.

Section.		Subject.	Fine which may be imposed.
1		2	3
[1][Section 18, sub-sections (*1*) and (*4*).		Duty of trustee to make an application to Deputy or Assistant Charity Commissioner for registration of public trust within time.	Rs. 1,000
Section 18, sub-section (*7*)	...	Duty of trustee to send memoranda of immovable property to certain officers and authorities within time.	Rs. 200]
Section 22	...	Failure to report a change ...	Rs. 1,000
[2][Section 22B	...	Failure to make an application within the time provided for.	Rs. 500
Section 22C	...	Failure to send memoranda within the time provided for.	Rs. 100]
[3]* * *		* * * * *	* *
Section 29	...	Duty of an executor to apply for the registration of a public trust within the time provided for.	Rs. 1,000
Section 32	...	Duty to keep regular accounts ...	Rs. 1,000
Section 35	...	Failure or omission to invest money in public securities.	Rs. 1,000
Section 59	...	Failure to pay contribution under section 58 by a trustee (other than the Charity Commissioner) [4][or by a person charging or collecting dharmada.]	Rs. 1,000
Section 63	...	Requiring an assessor to attend ...	Rs. 500

[1] These entries were substituted for the original by Bom. 23 of 1955, s. 8(*1*).
[2] These entries were inserted, *ibid.*, s. 8 (*2*).
[3] The entry relating to section 27 was deleted by Bom. 39 of 1951, s. 2, First Schedule.
[4] These words were inserted by Bom. 14 of 1951, s. 18.

Other offences.

67. Whoever contravenes any of the provisions of this Act or the rules for which no specific penalty has been provided by this Act, shall, on conviction, be punished with fine which may extend to Rs. 500.

CHAPTER XI.

FUNCTIONS OF CHARITY COMMISSIONERS, PROCEDURE, JURISDICTION AND APPEALS.

Duties, functions and powers of Deputy or Assistant Charity Commissioner.

68. For the purposes of this Act, the following shall be the duties and functions to be performed and powers to be exercised by the Deputy or Assistant Charity Commissioner for the region or sub-region for which he is appointed, namely :—

(*a*) to keep and maintain such books, entries and other documents as may be prescribed under section 17 ;

(*b*) to hold an inquiry under section 19 or 22 for any of the purposes mentioned in the said section ;

(*c*) to record entries in the register kept under section 17 and to make amendments in the said entries under section 22 ;

(*d*) to enter on and inspect any trust property, to call for and inspect any proceedings of a trustee and to call for any return, statement, account or report from trustees or any person connected with a public trust under section 37 ;

(*e*) to permit inspection of any statement, notice, intimation, account, audit note or any other document ;

(*f*) to prepare a list of assessors under section 62 and to choose and summon them under sections 63 and 65 for the purpose of inquiries under this Act ;

(*g*) to exercise such other powers and to perform such other duties and functions as may be prescribed.

Duties, functions and powers of Charity Commissioner.

69. For the purposes of this Act, the following shall be the duties to be performed and powers to be exercised by the Charity Commissioner, namely :—

(*a*) the general superintendence of the administration and carrying out the purposes of this Act under section 3 ;

(*b*) power to entertain and dispose of appeals from the findings of a Deputy or Assistant Charity Commissioner under section 20, 22 or 28 ;

(*c*) power to determine which of the Deputy or Assistant Charity Commissioners shall proceed with an inquiry relating to the registration of any public trust under section 25 ;

(*d*) power to direct a special audit of the accounts of a public trust under section 33 ;

(*e*) power to require an auditor to forward to him a copy of a balance sheet and income and expenditure account under section 34 ;

(*f*) power to permit a trustee to invest money of a public trust in any manner other than in public securities under section 35 ;

(*g*) power to sanction a sale, mortgage, exchange, gift or lease of immovable property belonging to a public trust under section 36;

(*h*) power to enter on and inspect any trust property, to call for and inspect any proceedings of a trustee, and to call for any return, statement, account or report from trustees or any person connected with a public trust under section 37;

(*i*) power to hold an inquiry in regard to any loss caused to a public trust under section 40, and to order a surcharge under section 41;

(*j*) power to act as the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890, under section 43; VI of 1890.

(*k*) power to act as a trustee of a public trust;

(*l*) power to file a suit under section 50;

(*m*) power to give or refuse consent to the institution of a suit under section 51;

(*n*) power to give notice to trustees for the *cypres* application of the trust money and to make an application to the court under section 55;

(*o*) power to publish the lists of assessors under section 62;

(*p*) to exercise such other powers and perform such other duties and functions as may be prescribed.

Appeals from findings of Deputy or Assistant Charity Commissioner.

70. (*1*) An appeal [1][against the finding or order] of the Deputy or Assistant Charity Commissioner may be filed to the Charity Commissioner in the following cases:—

(*a*) the finding [2][and order, if any,] under section 20;

(*b*) the finding under section 22;

[3][(*b-1*) the finding under section 22A;]

(*c*) the finding under section 28;

(*d*) the order under sub-section (*3*) of section 54.

(*2*) No appeal shall be maintainable after the expiration of sixty days from the recording of the finding or the passing of the order, as the case may be.

(*3*) The Charity Commissioner may, after hearing the appellant or any person appearing on his behalf, for reasons to be recorded in writing either annul, reverse, modify or confirm the finding or the order appealed against or he may direct the Deputy or Assistant Charity Commissioner to make further inquiry or to take such additional evidence as he may think necessary or he may himself take such additional evidence.

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[1] These words were substituted for the words "against the finding" by Bom. 28 of 1953, s. 15 (*i*).
[2] These words were inserted, *ibid.*, s. 15 (*ii*).
[3] Clause (*b-1*) was inserted by Bom. 59 of 1954, s. 7.

Charity Commissioner to call for and examine record and proceedings before Deputy or Assistant Charity Commissioner.

[1][**70A.** (*1*) The Charity Commissioner may in any of the cases mentioned in section 70, call for and examine the record and proceedings of such case before any Deputy or Assistant Charity Commissioner for the purpose of satisfying himself as to the correctness of any finding or order recorded or passed by the Deputy or Assistant Charity Commissioner and may either annul, reverse, modify or confirm the said finding or order or may direct the Deputy or Assistant Charity Commissioner to make further inquiry or take such additional evidence as he may think necessary or he may himself take such additional evidence :

Provided that the Charity Commissioner shall not record or pass any order without giving the party affected thereby an opportunity of being heard.

(*2*) Nothing in sub-section (*1*) shall entitle the Charity Commissioner to call for and examine the record of any case,—

(*a*) during the period in which an appeal under section 70 can lie against any finding recorded by the Assistant or Deputy Charity Commissioner in such case, or

(*b*) in which an order has been passed either in an appeal made under section 70 or 71 or on an application under section 72.]

Appeal to Bombay Revenue Tribunal.

71. (*1*) The appeal to the Bombay Revenue Tribunal under sub-section (*2*) of section 51 against the decision of the Charity Commissioner refusing consent to the institution of the suit shall be filed within sixty days from the date of such decision in such form and shall be accompanied by such fee as may be prescribed.

(*2*) The Bombay Revenue Tribunal after making such inquiry as it thinks fit may confirm, revoke or modify the decision of the Charity Commissioner.

(*3*) The decision of the Bombay Revenue Tribunal shall be final and conclusive.

Application from Charity Commissioner's decision under section 40, 41 or 70, etc.

72. (*1*) Any person aggrieved by the decision of the Charity Commissioner under section 40, 41 [2][,70 or 70A] on the questions [3][whether a trust exists and whether such trust is a public trust] or whether any property is the property of such trust [4]* * * may, within sixty days from the date of the decision, apply to the court to set aside the said decision.

[5][(*1A*) No party to such application shall be entitled to produce additional evidence, whether oral or documentary, before the Court unless the Deputy or Assistant Charity Commissioner or the Charity Commissioner has refused to admit evidence which ought to have been admitted or the Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause the Court thinks it necessary to allow such additional evidence :

Provided that whenever additional evidence is allowed to be produced by the Court, the Court shall record the reason for its admission.]

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[1] Section 70A was inserted by Bom. 59 of 1954, s. 8.

[2] The figures, word and letter ", 70 or 70A" were substituted for the word and figures "or 70" by Bom. 59 of 1954, s. 9 (*1*).

[3] These words were substituted for the words "whether a trust is a public trust" by Bom. 14 of 1951, s. 19 (*i*).

[4] The words and figures "under Chapter IV" were deleted, *ibid.*, s. 19 (*ii*).

[5] Sub-section (*1A*) was inserted by Bom. 59 of 1954, s. 9 (*2*).

(2) The court after taking [1][evidence, if any,] may confirm, revoke or modify the decision or remit the amount of the surcharge and make such orders as to costs as it thinks proper in the circumstances.

(3) Pending the disposal of an application under sub-section (2), all proceedings for surcharge shall be stayed if the person aggrieved makes out a *prima facie* case for a stay order.

(4) An appeal shall lie to the High Court against the decision of the court under sub-section (2) as if such decision was a decree from which an appeal ordinarily lies.

Officers holding inquiries to have powers of civil court.

73. In holding inquiries under this Act, the officer holding the same shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit—

V of 1908.

(a) proof of facts by affidavits,

(b) summoning and enforcing the attendance of any person and examining him on oath,

(c) compelling the production of documents,

(d) issuing of commissions.

Inquiries to be judicial inquiries.

74. All inquiries and appeals under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Limitation.

75. In computing the period of appeal under this Chapter, the provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeals.

IX of 1908.

Civil Procedure Code to apply to proceedings under this Act.

76. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the court under this Act.

V of 1908.

Recovery of sums due under section 18, [5][20, 41, 48, 79A, 79C or 79CC] or rules.

77. All sums payable under section 18, [2][20], 41, [3][48, 79A, [4][79C or 79CC]] or under any rule, if not paid, shall notwithstanding anything contained in any law, be recoverable as an arrear of land revenue.

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[1] These words were substituted for the words "such evidence as it thinks necessary" by Bom. 59 of 1954, s. 9 (3).

[2] These figures were inserted by Bom. 28 of 1953, s. 16 (a).

[3] These figures, letters and word were substituted for the word and figures "or 48" by Bom. 14 of 1951, s. 20.

[4] The figures, letters and word "79C or 79CC" were substituted for the word, figures and letter "or 79C" by Bom. 28 of 1953, s. 16 (b).

[5] These were substituted for the figures, letters and word "41, 48, 79A or 79C," by Bom. 21 of 1954, s. 3, Second Schedule.

CHAPTER XII.

MISCELLANEOUS.

Charity Commissioner and other officers and assessors to be public servants.

78. The Charity Commissioner, Deputy and Assistant Charity Commissioners, Inspectors and other subordinate officers and Assessors appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Decision of property as public trust property.

79. (*1*) Any question, [1][whether or not a trust exists and such trust is a public trust] or particular property is the property of such trust, shall be decided by the Deputy or Assistant Charity Commissioner or the Charity Commissioner in appeal as provided by this Act.

(*2*) The decision of the Deputy or Assistant Charity Commissioner or the Charity Commissioner in appeal, as the case may be, shall, unless set aside by the decision of the court [2][on application] or of the High Court in [3]* appeal, be final and conclusive.

Recovery of costs and expenses incurred on legal proceedings by Charity Commissioner, etc.

[4][**79A.** All costs, charges and expenses incurred by the Charity Commissioner, or the Deputy or Assistant Charity Commissioner as a party to, or in connection with, any legal proceeding in respect of any public trust shall, notwithstanding anything contained in section 79B, be payable out of the property or funds of the public trust, except in cases where the liability to pay the same has been laid on any party or other person personally and the right to reimbursement under this section has been negatived in express terms.

Costs of proceedings before Courts including High Court.

79B. The costs, charges and expenses of and incidental to any suit, appeal or application to any court including the High Court under this Act shall be in the discretion of the court, which may, subject to the provisions of section 79A, direct the whole or any part of such costs, charges and expenses to be met from the property or funds of the public trust concerned or to be borne and paid in such manner and by such persons as it thinks fit.

Costs of proceeding before Charity Commissioner etc.

79C. The costs, charges and expenses of and incidental to any appeal, application or other proceeding before the Charity Commissioner or the Deputy or Assistant Charity Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what property or funds and to what extent such costs, charges and expenses are to be paid.

Compensatory costs for frivolous or vexatious proceedings before Charity Commissioner, etc.

[5][**79CC.** (*1*) If in an inquiry under section 19 the Deputy or Assistant Charity Commissioner or in an inquiry under section 51 the Charity Commissioner is of opinion that the application on which such inquiry was commenced was either frivolous or vexatious the Deputy or Assistant Charity Commissioner or the Charity Commissioner, as the case may be, may at the request of the person against whom such application)was made hereinafter referred to as "the opponent") call upon the perason making the pplication (hereinafter referred to as "the applicant") to show cause why the applicant should not pay compensation to the opponent and if the applicant is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

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[1] These words were substituted for the original by Bom. 14 of 1951, s. 21 (*1*).
[2] These words were substituted for the words "in appeal," *ibid*, s. 21 (*2*) (*i*).
[3] The word "further" was deleted, *ibid*, s. 21 (*2*) (*ii*).
[4] Sections 79A to 79D were inserted by Bom. 41 of 1951, s. 22.
[5] Section 79CC was inserted by Bom. 28 of 1953, s. 17.

(2) If the Deputy or Assistant Charity Commissioner or the Charity Commissioner, as the case may be, is satisfied that the application was either frivolous or vexatious he may, after recording reasons, order that compensation to such amount not exceeding two hundred and fifty rupees as he may determine be paid by the applicant to the opponent.

(3) An appeal shall lie against an order awarding compensation under sub-section (2) if made by the Deputy or Assistant Charity Commissioner to the Charity Commissioner and if made by the Charity Commissioner to the Bombay Revenue Tribunal and the provisions of sections 70 and 71 shall *mutatis mutandis* apply to such appeal.]

Court-fee to be paid as prescribed by Schedule B.

79D. Notwithstanding anything contained in the Court-fees Act, 1870, the documents described in columns 1 and 2 of Schedule B hereto shall bear a court-fee stamp of the value specified in column 3 thereof.] VII of 1870.

Bar of jurisdiction.

80. Save as expressly provided in this Act, no civil court shall have jurisdiction to decide or deal with any question which is by or under this Act to be decided or dealt with by any officer or authority under this Act, or in respect of which the decision or order of such officer or authority has been made final and conclusive.

Indemnity from suits and proceedings.

81. (1) No suit, prosecution or other proceeding shall be instituted against the State Government or any officer or authority in respect of anything in good faith done or purporting to be done under this Act.

(2) Subject to the provisions of sub-section (1), no suit under section 50 shall, without the previous sanction of the State Government, be instituted against the Charity Commissioner in respect of a public trust of which he has been authorised to act as a trustee.

Trial of offences under this Act.

82. No Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try an offence punishable under this Act.

Previous sanction of Charity Commissioner necessary for prosecution.

83. No prosecution for an offence punishable under this Act, shall be instituted without the previous sanction of the Charity Commissioner.

Rules.

84. (1) The State Government may make rules for the purpose of carrying into effect of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely :—

(*a*) the manner of publishing the notification under sub-section (4) of section 1 ;

(*b*) the powers, duties and functions of the officers other than the Charity Commissioner, Deputy and Assistant Charity Commissioners appointed under this Act in addition to those provided for in this Act ;

(*c*) the powers, duties and functions of assessors in addition to those provided for in this Act ;

(*d*) the limits of regions and sub-regions to be prescribed under sub-section (*1*) of section 14 ;

(*e*) the books, indices and registers to be kept and maintained in a Public Trusts Registration Office, and the particulars to be entered in such books, indices and registers under section 17 ;

(*f*) the form in which an application for the registration of a Public trust is to be made and the fee to be paid for the same, the other particulars to be entered therein and the manner in which an application for such registration to be signed and verified and the value and kind of trust property in respect of which it shall not be necessary to give particulars under section 18 ;

(*g*) the manner in which an inquiry has to be made by the Deputy or Assistant Charity Commissioner under sections 19 and 39 ;

(*h*) the form in which the [1][trustee] has to make a report regarding the change under section 22 ;

(*i*) the book in which the Deputy or Assistant Charity Commissioner shall make an entry under section 23 ;

[2][(*j*) the form of memorandum to be sent by trustees and Deputy and Assistant Charity Commissioners for registration in the registers maintained under section 28B, the manner of maintaining such registers and the fees to be paid for inspection of and taking extracts from such registers ;]

(*k*) the particulars to be entered in the accounts under sub-section (*2*) of section 32 and the fee to be paid for special audit under section 33 ;

(*l*) the manner of notifying contents of the will under section 46 ;

(*m*) the administrative charges to be levied under sub-section (*1*) of section 48 ;

(*n*) the form of account to be submitted under sub-section (*2*), and the manner of passing order under sub-section (*3*), of section 54 ;

(*o*) the time within which trustees may apply to the court for directions under sub-section (*1*) of section 55 ;

(*p*) the date on which and the manner in which and the amount of contribution which every public trust shall pay annually under section 58 and the manner in which the custody and investment of, and the disbursement and payment from, such fund shall be made under section 60 ;

(*q*) the date on which the Deputy of Assistant Charity Commissioner shall prepare a list of assessors under sub-section (*1*) and the persons who may be exempted to serve as a assessors under sub-section (*2*), of section 62 ;

(*r*) the allowances to be paid to assessors under sub-section (*5*) of section 65

(*s*) the other powers, duties and functions to be exercised and performed by a Deputy or Assistant Charity Commissioner under section 68 ;

(*t*) the other powers, duties and functions to be exercised and performed by the Charity Commissioner under section 69 ;

(*u*) the form of appeal and the fee to be paid for filing such appeal under section 71 ;

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[1] This word was substituted for the words "Deputy or Assistant Charity Commissioner" by Bom. 47 of 1950, s. 4.

[2] Clause (*j*) was inserted by Bom. 23 of 1955, s. 9.

(*v*) the custody and investment of the money to be credited to the Public Trusts Administration Fund and the disbursement and payment therefrom ;

(*w*) any other matter which is to be or may be prescribed under this Act.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

Repeal.

85. (*1*) The Religious Endowments Act, 1863, is hereby repealed. XX of 1863.

(*2*) [1][On the date of the application] of the provisions of this Act to any public trust or class of public trusts, under sub-section (*4*) of section 1 [2][hereafter in this section referred to as the said date)],the provisions of the Act specified in [3][Schedule A] which apply to such trust or class of trusts shall cease to apply to such trust or class of trusts.

(*3*) [4][Save as otherwise provided in this section, such repeal] or cessation shall not in any way affect—

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before [3][the said date],

(*b*) any legal proceedings or remedy in respect of such right, title, interest obligation or liability, or

(*c*) anything duly done or suffered before [5][the said date].

[6][(*4*) Notwithstanding anything contained in sub-section (*3*) all proceedings pending before any authority under the Mussalman Wakf Act, 1923 (as amended by the Mussalman Wakf (Bombay Amendment) Act, 1935), the Bombay Public Trusts Registration Act, 1935, or the Parsi Public Trusts Registration Act, 1936, immediately before the said date shall be transferred to the Charity Commissioner and any such proceedings shall be continued and disposed of by the Charity Commissioner or the Deputy or Assistant Charity Commissioner as the Charity Commissioner may direct. In disposing of such proceedings the Charity Commissioner, the Deputy Charity Commissioner or the Assistant Charity Commissioner, as the case may be, shall have and exercise the same powers which were vested in and exercised by the Court under the Mussalman Wakf Act, 1923 (as amended by the Mussalman Wakf (Bombay Amendment) Act, 1935), and by the Registrars under the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936, and shall pass such orders as may be just or proper. XLII of 1923. Bom. XVIII of 1935. Bom. XXV of 1935. Bom. XXIII of 1936. XLII of 1923. Bom. XVIII of 1935. Bom. XXV of 1935.

(*5*) All records maintained by the authority or Court under any of the Acts referred to in sub-section (*4*) shall be tranferred to the Charity Commissioner or to the Deputy or Assistant Charity Commissioner as the Charity Commissioner may direct.] Bom. XXIII of 1936.

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[1] These words were substituted for the words "on the application" by Bom. 28 of 1953, s. 18 (*1*).
[2] These brackets and words were inserted, *ibid.*
[3] The word and letter were substituted for the words "the Schedule" by Bom. 14 of 1951, s. 17.
[4] These words were substituted for the words "Such repeal" by Bom. 28 of 1953, s. 18 (*2*).
[5] These words were substituted for the words "the date of the application of this Act", *ibid.*
[6] Sub-sections (*4*) and (*5*) were added, *ibid.*, s. 18(3).

[1][SCHEDULE A.]

(*See* sections 28, 61 [2]* and 85.]

XIV of 1920. 1. The Charitable and Religious Trusts Act, 1920.

XLII of 1923. 2. The Mussalman Wakf Act, 1923, as amended by Bombay Act XVIII of 1935.

Bom. XXV of 1935. 3. The Bombay Public Trusts Registration Act, 1935.

Bom. XXIII of 1936. 4. The Parsee Public Trusts Registration Act, 1936.

5. The Baroda Public Institutions Act (Baroda Act No. VI of Samvat 1961).

XX of 1863. 6. The Religious Endowments Act, 1863, as applied to the Jamkhandi State in 1890.

7. The Deosthan Rules, 1912, of the Jamkhandi State as amended by Jamkhandi Act No. 1 of 1948.

[3][SCHEDULE B.]

Section.	Description of Documents.	Value.
1	2	3
18(*1*)	Application for the registration of a public trust	Rs. 2
22(*1*)	Report of any change or proposed change in any of the entries recorded in the register kept under section 17.	Re. 1
25(*1*)	Application of any person having interest in a public trust to the Charity Commissioner to determine which of the Deputy or Assistant Charity Commissioners shall proceed with an inquiry under section 19 or 22 in regard to any public trusts.	Rs. 2
29	Application by the executor of a will for the registration of a public trust created by such will.	Rs. 2
[4][36	Application for sanction of the Charity Commissioner for—	
	(*a*) sale, mortgage, exchange or gift of immoveable property—	
	(*i*) where the value of the property involved does not exceed Rs. 2,000	Rs. 2
	(*ii*) where the value of the property involved exceeds Rs. 2,000 but does not exceed Rs. 10,000	Rs. 5
	(*iii*) in any other case	Rs. 10
	(*b*) lease of immovable property—	
	(*i*) where the average annual rent reserved does not exceed Rs. 100.	Rs. 2
	(*ii*) where the average annual rent reserved exceeds Rs. 100 but does not exceed Rs. 500	Rs. 5
	(*iii*) in any other case	Rs. 10.]

[1] This word and letter were substituted for the word "Schedule" by Bom. 14 of 1951, s. 23.
[2] The comma and figures "64" were deleted by Bom. 21 of 1954, s. 3, Second Schedule.
[3] This Schedule was inserted, by Bom. 14 of 1951, s. 23.
[4] This entry was substituted for the original by Bom. 28 of 1953, s. 19 (*1*).

SCHEDULE B—*contd.*

Section.	Description of Documents.	Value.
1	2	3
44	Application by the author of a public trust to the Charity Commissioner for his consent to act as trustee of the public trust.	Rs. 10
45	Application by a person intending to create a public trust to the Charity Commissioner for his consent to act as trustee of such trust.	Rs. 10
46	Communication by the executor of a will of a testator or the administrator of his estate notifying to the Charity Commissioner the contents of the will under which he has been appointed a trustee.	Rs. 10
[1][47(*1*) and 47A	Application to the Court by the Charity Commissioner or any person having interest in a public trust or any trustee of public trust for the appointment of a new trustee or for the vesting of property or for both.	Rs. 10
47(*6*)	Appeal to the High Court from the decision of the court in Application filed under sub-section (*1*) of section 47.	Rs. 10
51(*1*)	Application to the Charity Commissioner for consent to file a suit of the nature specified in section 5[illegible].	Rs. 10
59(3)	Appeal to the State Government against the order of the Charity Commissioner for the payment of contribution by a bank or person from the money standing to the credit of the public trust with such bank or person.	Rs. 10
70(*1*)	Appeal to the Charity Commissioner against the finding of Deputy or Assistant Charity Commissioner under section 20, 22 or 28 or order under sub-section (*3*) of section 54.	Rs. 10
71(*1*)	Appeal to the Bombay Revenue Tribunal against the decision of the Charity Commissioner refusing consent to the institution of a suit.	Rs. 10
72(*1*)	Application to the court against the decision of the Charity Commissioner under section 40, 41 or 70 or on the question whether a trust exists and whether such trust is a public trust or whether any property is the property of such trust.	Rs. 10
72(*4*)	Appeal to the High Court against the decision of the Court under sub section (*2*) of section 72.	Rs. 10
	Mukhtarnama or Wakalatnama when presented for the conduct of any inquiry, appeal or other proceeding to the Charity Commissioner, or the Deputy or Assistant Charity Commissioner.	Re. 1
	[2][Application to the Charity Commissioner or the Deputy or Assistant Charity Commissioner for copies under the Act.	As. 3
	Any other application or petition presented to the Charity Commissioner or the Deputy or Assistant Charity Commissioner.]	Re. 1

[1]This entry was substituted for the original by Bom. 28 of 1953, s, 19 (*2*),
[2] This entry was inserted by Bom. 28 of 1953, s. 19 (*3*),